

Message

From: Adams, Adam [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=8ED5877842964D6794FAB4410F65DB46-ADAMS, ADAM]
Sent: 7/2/2019 7:26:12 PM
To: Durant, Jennah [Durant.Jennah@epa.gov]; Smalley, Bryant [smalley.bryant@epa.gov]
CC: Hubbard, Joseph [Hubbard.Joseph@epa.gov]
Subject: RE: Media inquiry--ITC wastewater

That works. Thanks Jennah.

From: Durant, Jennah
Sent: Tuesday, July 02, 2019 2:25 PM
To: Smalley, Bryant <smalley.bryant@epa.gov>; Adams, Adam <Adams.Adam@epa.gov>
Cc: Hubbard, Joseph <Hubbard.Joseph@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

OK, how about this? I will also tell the reporter any questions about the NPDES permit should be directed to TCEQ.

After review and consultation with TCEQ, EPA determined Southwest Shipyards was an accepted facility under the CERCLA rule for off-site disposal of hazardous waste, which screens for compliance issues. However, TCEQ later clarified this facility's state-issued National Pollutant Discharge Elimination System permit did not permit receipt and treatment of the specified waste. No wastewater from the ITC response was processed at Southwest Shipyards.

From: Smalley, Bryant
Sent: Tuesday, July 02, 2019 1:54 PM
To: Durant, Jennah <Durant.Jennah@epa.gov>; Adams, Adam <Adams.Adam@epa.gov>
Cc: Hubbard, Joseph <Hubbard.Joseph@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

Not to add more confusion to the conversation, but the Off-Site Rule (the acceptable list) requires that CERCLA wastes may only be placed in a facility operating in compliance with the Resource Conservation and Recovery Act (RCRA) or other applicable Federal or State requirements. So primarily it is a compliance review. Even if the facility is operating in compliance with RCRA, they may only be permitted to accept certain types of wastes. In the current case, there was a misunderstanding between the waste treatment facility and the TCEQ about specifically which wastes the facility's TPDES permit allowed.

Bryant

From: Durant, Jennah
Sent: Tuesday, July 2, 2019 1:19 PM
To: Adams, Adam <Adams.Adam@epa.gov>
Cc: Smalley, Bryant <smalley.bryant@epa.gov>; Hubbard, Joseph <Hubbard.Joseph@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

I'm guessing the follow-up question will be how can a facility be acceptable under CERCLA if it's not permitted appropriately. In other words, yes, there's a difference, but why is there a difference?

From: Adams, Adam
Sent: Tuesday, July 02, 2019 1:15 PM

To: Durant, Jennah <Durant.Jennah@epa.gov>
Cc: Smalley, Bryant <smalley.bryant@epa.gov>; Hubbard, Joseph <Hubbard.Joseph@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

I think it's good to show that there's a difference between a facility being permitted to accept a certain waste compared to a facility being on the list of acceptable facility to accept certain waste. It would probably create more questions to state that a facility can be on the acceptable list to receive waste from a CERCLA site and not be permitted to accept the waste, and vice versa. If both of the conditions (on the list and permitted), then the facility cannot accept the specified waste.

From: Durant, Jennah
Sent: Tuesday, July 02, 2019 1:07 PM
To: Adams, Adam <Adams.Adam@epa.gov>
Cc: Smalley, Bryant <smalley.bryant@epa.gov>; Hubbard, Joseph <Hubbard.Joseph@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

Hi Adam and Bryant,

The reporter just emailed me back about this so I'm going to try to get a response approved. (Sorry to drag this out; I hadn't heard from her in a few weeks.)

How about:

After review and consultation with TCEQ, EPA determined Southwest Shipyards was an accepted facility under the CERCLA rule for off-site disposal of hazardous waste. However, TCEQ later clarified this was not covered under the facility's state-issued National Pollutant Discharge Elimination System permit, and the wastewater was returned to ITC. No wastewater from the ITC response was processed at Southwest Shipyards.

From: Adams, Adam
Sent: Thursday, June 13, 2019 2:39 PM
To: Durant, Jennah <Durant.Jennah@epa.gov>
Cc: Smalley, Bryant <smalley.bryant@epa.gov>
Subject: Re: Media inquiry--ITC wastewater

Under the CERCLA off-site rule, ITC asked EPA for a determination if SWSY was on the list of acceptable facilities. EPA reviewed and consulted with TCEQ and determined SWSY was on the list of acceptable facilities. A facility being on the acceptable list is separate from a facility being permitted to receive waste. TCEQ later clarified that SWSY did not have a current permit to receive wastes. According to SWSY, no ITC Fire incident waste waters were discharged from SWSY.

Sent from my iPhone

On Jun 13, 2019, at 2:18 PM, Durant, Jennah <Durant.Jennah@epa.gov> wrote:

I checked with TCEQ on this inquiry and they said the reporter has contacted them about this issue as well. Here is their response:

Treatment and disposal of the incident water is not authorized under the TPDES permit Southwest Shipyard holds nor did TCEQ approve Southwest Shipyards to treat and dispose of the incident water.

Here is a draft EPA response. Let me know what you think or if you have edits:

The Unified Command initially approved ITC to send wastewater to the Southwest Shipyards under the CERCLA's rules for off-site disposal of hazardous waste. TCEQ later clarified this was not covered under

the facility's National Pollutant Discharge Elimination System permit, and the wastewater was returned to ITC. No wastewater from the ITC response was processed at Southwest Shipyards.

From: Smalley, Bryant
Sent: Tuesday, June 11, 2019 7:36 PM
To: Durant, Jennah <Durant.Jennah@epa.gov>
Cc: Carroll, Craig <Carroll.Craig@epa.gov>; Crossland, Ronnie <Crossland.Ronnie@epa.gov>; Adams, Adam <Adams.Adam@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

Jennah – will you be in tomorrow? Let us know what time works and Adam and I will give you a call.

Bryant

From: Crossland, Ronnie
Sent: Tuesday, June 11, 2019 2:58 PM
To: Durant, Jennah <Durant.Jennah@epa.gov>; Smith, Monica <smith.monica@epa.gov>
Cc: Smalley, Bryant <smalley.bryant@epa.gov>; Carroll, Craig <Carroll.Craig@epa.gov>
Subject: RE: Media inquiry--ITC wastewater

Jennah,

I am copying Bryant Smalley on this email. He or the State of Texas are the more appropriate contacts.

Thanks
Ronnie

From: Durant, Jennah
Sent: Tuesday, June 11, 2019 2:03 PM
To: Crossland, Ronnie <Crossland.Ronnie@epa.gov>; Smith, Monica <smith.monica@epa.gov>
Subject: Media inquiry--ITC wastewater

Hi Ronnie and Monica—

A reporter sent the inquiry below on ITC wastewater. Can you help with this?

Jennah
x2287

I'm trying to figure out how it came to be that ITC sent a barge loaded with wastewater from the incident to Southwest Shipyard. It is my understanding that EPA, in conjunction with TCEQ, initially determined the Shipyard was approved or accepted to receive the wastewater. Later on, TCEQ confirmed the Shipyard did not have the appropriate permit to accept the barge. Could you please provide information as to what happened?